

REMARKS

Entry of the foregoing amendments is respectfully requested.

Summary of Amendments

Upon entry of the foregoing amendments claims 21 and 38 are amended, whereby claims 21-43 will continue to be pending, claims 21 and 38 being independent claims.

Support for the amended claims can be found throughout the present specification (see, e.g., page 4, first paragraph). At any rate, it is conventional to package impregnated wipes, either individually or a plurality thereof, for use by the consumer.

It is pointed out that the amendments to claims 21 and 38 are without prejudice or disclaimer, and Applicants expressly reserve the right to prosecute these claims in their original, unamended form in one or more continuation and/or divisional applications.

Applicants note that entry of the present amendments is proper because they do not raise any new issues and do not require a further search.

Summary of Office Action

Claims 21, 22, 24, 27, 29, 30 and 32-38 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wagner et al., U.S. Patent No. 5,951,991 (hereafter "WAGNER").

Claims 23, 25, 26, 28, 31 and 39-43 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over WAGNER.

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Claims 21-43 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kaneda et al., US 2001/0046948 (hereafter "KANEDA") in view of McAtee et al., US 2002/0009484 (hereafter "McATEE").

Claims 21-25, 27, 29-35, 38, 39 and 42 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Drucks et al., US 2002/0102289 (hereafter "DRUCKS").

Claims 26, 28, 36, 37, 40, 41 and 43 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over DRUCKS in view of McATEE.

Response to Office Action

Reconsideration and withdrawal of the rejections of record are respectfully requested in view of the foregoing amendments and the following remarks.

Response to Rejections of Claims over WAGNER

Claims 21, 22, 24, 27, 29, 30 and 32-38 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as allegedly being unpatentable over WAGNER and claims 23, 25, 26, 28, 31 and 39-43 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over WAGNER. The rejection relies primarily on Example 10 of WAGNER and essentially alleges that the intermediate which is obtained after applying the surfactant phase solution to a non-woven substrate (of unknown weight) and before drying the substrate anticipates or renders obvious the subject matter of all claims of record.

Applicants respectfully disagree with the Examiner's allegations in this regard. At any rate, independent claims 21 and 38 have been amended to additionally recite therein that the impregnated substrate is present in a packaged form. WAGNER clearly fails to teach or suggest packaging the non-woven substrate having the surfactant phase solution applied thereto before drying same. For this reason alone, WAGNER is unable to anticipate or render obvious the subject matter of any of the claims submitted herewith.

In view of the foregoing, withdrawal of the rejections under 35 U.S.C. § 102(b) and § 103(a) over WAGNER is warranted and respectfully requested.

Response to Rejections of Claims under 35 U.S.C. § 103(a) over KANEDA in View of McATEE

Claims 21-43, i.e., all claims of record, are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over KANEDA in view of McATEE. The rejection essentially alleges that KANEDA discloses all of the elements which are recited in the present claims with the exception of "an emulsion comprising acylamino acid surfactants like sodium cocoylglutamate, sulfosuccinates, or olefin sulfonates as the specific anionic surfactants, and alkyl polyglycosides as the specific nonionic surfactants, the presence of polyquaternium film former, and the proportions of water in amounts as those recited". Page 7, first paragraph of the present Office Action. In view thereof, the Examiner relies on McATEE and asserts, *inter alia*, that McATEE would allegedly have rendered it obvious to one of ordinary skill in the art "to substitute the polyoxyalkylene fatty acid esters of [KANEDA] with alkyl polyglucosides, like decyl polyglucoside and lauryl polyglucoside, because the substitution of art recognized equivalents as shown by [McATEE] is within the level of ordinary

skill in the art”.

Applicants respectfully traverse this rejection. Regarding the present claims, it is noted that present independent claim 21 recites, *inter alia*, that the cleansing preparation is foaming and comprises (i) at least one anionic surfactant selected from acylamino acid surfactants, sarcosinates, sulfosuccinate citrates, monoalkylphosphates, and olefin sulfonates, and (ii) at least one nonionic surfactant selected from alkyl polyglycosides.

Regarding the foaming property of the cleansing preparation recited in the present claims it is submitted that given the fact that the cleansing material (emulsion) of KANEDA has “an excellent cleansing effect on various makeup stains” (see, e.g., paragraphs [0001], [0009], [0010] and [0013] of KANEDA) this document fails to provide any apparent reason for one of ordinary skill in the art to provide a foaming emulsion. Moreover, according to paragraph [0016] of KAMEDA the concentration of the oily component in the emulsion disclosed therein is preferably at least 10 %, more preferably at least 20 % by weight. The compositions of Examples 1-4 of KAMEDA relied on by the Examiner all comprise at least 45 % by weight of oily component. It is not seen that with such high concentrations of oily component it would even be possible to prepare a foaming composition. McATEE is unable to cure this deficiency of KAMEDA and for this reason alone, KAMEDA in view of McATEE is unable to render obvious the subject matter of any of the present claims.

Applicants further point out again that none of the compositions of Examples 1-4 of KAMEDA specifically relied on by the Examiner contains any of the nonionic and anionic surfactants which are recited in the present claims (note that the aluminum dialkylphosphate contained in these compositions is clearly different from the monoalkylphosphates which are recited

in the present claims). Accordingly, it is not seen that the weight ratio of anionic to nonionic surfactants in Example 1 of KAMEDA renders obvious the weight ratio of anionic and nonionic surfactants which are completely different from the surfactants employed by KAMEDA.

Applicants also respectfully maintain the position that in view of the fact that the cleansing material of KANEDA comprises an emulsion and has “an excellent cleansing effect on various makeup stains” whereas the cleansing article of McATEE is useful for cleansing the skin and hair and comprises a water insoluble substrate and a lathering surfactant releasably associated with the substrate there is no reason for a person of ordinary skill in the art that is looking for a substitute for a single one of the number of suitable exemplary surfactants mentioned in paragraph [0020] of KANEDA and in particular, polyoxyalkylene fatty acid esters to consult McATEE in this regard.

In this regard it additionally has to be taken into account that polyoxyalkylene fatty acid esters are a class of surfactants which is neither particularly recommended by, nor employed in any of the exemplified compositions of KANEDA, wherefore there arises the question for which reason a person of ordinary skill in the art would have focused on this particular class of surfactants and would have tried to find a suitable substitute therefor.

Moreover, it also is pointed out again that the fact that with the exception of alkoxylated fatty acid esters (assuming, *arguendo*, that they are identical with, or at least similar to polyoxyalkylene fatty acid esters) all of the nonionic lathering surfactants mentioned in paragraph [0126] of McATEE are completely different from the nonionic surfactants mentioned in paragraph [0020] of KANEDA, is an indication for one of ordinary skill in the art that the important properties of the nonionic surfactants of KAMEDA are different from the important properties of the nonionic surfactants of

McATEE.

It further is to be taken into account in this regard that the list of preferred nonionic surfactants in paragraph [0131] of McATEE, while including alkyl polyglucosides, does not include alkoxyated fatty acid esters. Under the (Examiner's) assumption that McATEE teaches that alkyl polyglucosides and alkoxyated fatty acid esters are equivalent and interchangeable this does not make sense.

Applicants submit that for at least all of the foregoing reasons, KANEDA in view of McATEE is unable to render obvious the subject matter of any of the present claims. Accordingly, withdrawal of the rejection of claims 21-43 under 35 U.S.C. § 103(a) over KANEDA in view of McATEE is warranted, which action is respectfully requested.

Response to Rejections of Claims under 35 U.S.C. § 103(a) over DRUCKS

Claims 21-25, 27, 29-35, 38, 39 and 42 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over DRUCKS. The Examiner concedes that DRUCKS fails to disclose "an impregnation solution comprising anionic surfactants like acylamino acid surfactants, sarcosinates or sulfosuccinates; or nonionic surfactants like alkyl polyglycoside; benzoic acid and the ratio of the anionic to nonionic surfactants as those recited" but takes the position that these elements are rendered obvious by DRUCKS.

Applicants respectfully traverse this rejection. In particular, DRUCKS neither teaches nor suggests employing mixtures of surfactants which belong to different classes and in particular, to combine nonionic and anionic surfactants. It is noted that the Examiner points to paragraph [0032] of

DRUCKS where it is stated that the wipes disclosed therein advantageously comprise “one or more” washing-active surfactants from the groups set forth in paragraphs [0034] to [0069] of DRUCKS.

While the reference to “one or more” surfactants does not exclude the use of surfactants from different classes, the fact remains that none of the almost 20 exemplified compositions of DRUCKS contains different classes of surfactants, let alone a combination of anionic and nonionic surfactants, although all of the surfactant containing compositions appear to contain more than one surfactant.

Moreover, all of the surfactants which are employed in the Examples of DRUCKS appear to be exclusively nonionic surfactants and in particular, nonionic surfactants which are completely unrelated to alkyl polyglycosides. For example, the surfactants used in the composition of Example 12 of DRUCKS specifically relied on in the present rejection are ceteareth-20, glyceryl stearate and stearyl alcohol, none of which bears any structural or other resemblance to any of the surfactants which are recited in the present claims.

In view of the foregoing facts it is not seen that DRUCKS renders it obvious to one of ordinary skill in the art to provide an impregnation solution which comprises both anionic surfactants and nonionic surfactants, let alone to employ both one or more of the anionic surfactants recited in the present claims and one or more alkyl polyglycosides. It also is not seen that DRUCKS teaches or suggests that the weight ratio of (any) two different classes of surfactants (such as, e.g., anionic and nonionic surfactants) is a result-effective variable, wherefore the question arises what would have prompted one of ordinary skill in the art to optimize a weight ratio of the anionic surfactants recited in the present claims to nonionic surfactants and in particular, alkyl polyglycosides to arrive at the weight ratios recited in, e.g., present claims 22 and 23.

Applicants submit that for at least all of the foregoing reasons, the rejection of claims 21-25, 27, 29-35, 38, 39 and 42 under 35 U.S.C. § 103(a) over DRUCKS is without merit, wherefore withdrawal thereof is respectfully requested as well.

Response to Rejections of Claims under 35 U.S.C. § 103(a) over DRUCKS in View of McATEE

Claims 26, 28, 36, 37, 40, 41 and 43 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over DRUCKS in view of McATEE. The rejection concedes that DRUCKS fails to disclose “sodium cocoylglutamate as the specific anionic surfactant, and the incorporation of polyquaternium film former” but alleges that this deficiency of DRUCKS is cured by McATEE.

Applicants respectfully traverse this rejection as well. Initially, it is noted that claims 26, 28, 36, 37, 40, 41 and 43 are dependent claims and are thus, not rendered obvious for at least all of the reasons which are set forth with respect to the rejection of independent claims 21 and 38 in view of DRUCKS.

Further, it is not seen what would have motivated one of ordinary skill in the art wishing to modify the wipes of DRUCKS to look for further examples of one of the types of anionic surfactants disclosed therein (i.e., surfactants which are neither particularly recommended by, nor employed in any of the exemplified compositions of DRUCKS) and to pick and choose one specific anionic surfactant which is mentioned in McATEE as a member of a laundry list of anionic surfactants which can be used for the wipes disclosed therein and is not employed in any of the many exemplified compositions of McATEE (in fact, none of these exemplified compositions contains a surfactant which is structurally related to sodium cocoylglutamate).

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Applicants submit that for at least all of the foregoing reasons, the rejection of claims 26, 28, 36, 37, 40, 41 and 43 under 35 U.S.C. § 103(a) over DRUCKS in view of McATEE is without merit as well, wherefore withdrawal thereof is respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
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